

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
RIMU CAPITAL LTD.	:	
	:	
Plaintiff,	:	Case No. 1:23-cv-05065(LJL)
	:	
vs.	:	
	:	DECLARATION OF
JASON ADER, SPRINGOWL ASSET	:	<u>JOHN H. CHUN</u>
MANAGEMENT LLC, SPRINGOWL	:	
ASSOCIATES LLC, ADER FUNDS	:	
MANAGEMENT LLC, 26 CAPITAL HOLDINGS	:	
LLC and SPRINGOWL SPECIAL	:	
OPPORTUNITIES FUND LP,	:	
	:	
Defendants.	:	
	:	
-----	X	

JOHN H. CHUN hereby declares the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am a member of the bar of this Court and of the law firm of Herrick, Feinstein LLP, attorneys for Proposed Intervenor Plaintiff Zama Capital Master Fund, LP ("Zama"). I am fully familiar with the facts and circumstances set forth herein based upon my review of the case file and documents and information provided to me by my clients.

2. I respectfully submit this Declaration in support of Zama's motion for an Order to Show Cause seeking (a) to intervene as of right in the above-captioned action and file its proposed complaint pursuant to Fed. R. Civ. P. 24, (b) a temporary restraining order and preliminary injunction against 26 Capital Holdings LLC and Rimu Capital Ltd., and (c) such other relief as the Court deems just and proper.

3. A copy of Zama's proposed pleading setting forth the claims for which intervention is sought is attached hereto as Exhibit 1.

4. A true and accurate copy of the Subscription Agreement (with attached Sponsor Operating Agreement) among Zama, Defendant 26 Capital Holdings LLC and Defendant Jason Ader, dated July 12, 2021, is attached hereto as Exhibit 2.

5. A true and accurate copy of the January 12, 2024 Settlement Agreement among Jason Ader, Rimu Capital Ltd., and 26 Capital Holdings LLC, is attached hereto as Exhibit 3 **[UNDER SEAL]**.

6. A true and accurate copy of the Confidential Settlement Agreement and Mutual Release dated November 9, 2023 among Plaintiffs and UEC Parties (as those terms are defined therein), is attached hereto as Exhibit 4 **[UNDER SEAL]**.

7. A true and accurate copy of the First Amended Complaint filed in this action on September 21, 2023 is attached hereto as Exhibit 5.

8. A true and accurate copy of the Proposed Second Amended Complaint filed in this action on October 12, 2023 is attached hereto as Exhibit 6.

9. A true and accurate copy of the Notice of Removal of Managing Member of 26 Capital Holdings LLC, from Rimu Capital Ltd. and Zama Capital Master Fund, LP, dated October 29, 2023, is attached hereto as Exhibit 7.

10. A true and accurate copy of the Complaint filed November 1, 2023 in the Court of Chancery of the State of Delaware by Rimu Capital LTD against Jason Ader, as defendant, and 26 Capital Holdings LLC, as nominal defendant (the "Rimu Delaware Action"), is attached hereto as Exhibit 8.

11. A true and accurate copy of the Motion for a *Status Quo* Order filed by Rimu Capital Ltd. on November 1, 2023 in the Rimu Delaware Action is attached hereto as Exhibit 9.

12. A true and accurate copy of the Order granting Zama Capital Master Fund, LP's Motion to Intervene dated January 23, 2024, filed in the matter *26 Capital Acquisition Corp. et al. v. Tiger Resort Asia Ltd. et al.*, C.A. No. 2023-0128-JTL (the "SPAC Action") is attached hereto as Exhibit 10.

13. A true and accurate copy of the letter from counsel for Defendants to the Court in the SPAC Action, dated January 26, 2024, is attached hereto as Exhibit 11.

14. A true and accurate copy of this firm's letter on behalf of Zama, dated January 26, 2024, to counsel for Rimu Capital Ltd. and 26 Capital Holdings, LLC, regarding Zama's Motion to Intervene in the SPAC Action, is attached hereto as Exhibit 12.

15. A true and accurate copy of an e-mail exchange between the undersigned and counsel for Rimu Capital Ltd. dated January 19, 2024 is attached hereto as Exhibit 13.

16. A true and accurate copy of a letter from Sponsor's Counsel to the Delaware court dated Jan. 29, 2024, is attached hereto as Exhibit 14.

17. A true and accurate copy of a Delayed Draw Promissory Note made by 26 Capital Holdings LLC in favor of Zama in the maximum principal amount of \$1,250,000, dated January 11, 2023, is attached hereto as Exhibit 15.

18. A true and accurate copy of a letter to Zama from Springowl Special Opportunities Fund, LP ("Springowl") dated January 11, 2023, regarding, *inter alia*, the above-referenced January 11, 2023 Delayed Draw Promissory Note, and referencing loans made by Zama and Springowl in "equal amounts" pursuant to the same, is attached hereto as Exhibit 16.

19. A true and accurate copy of a Delayed Draw Promissory Note made by 26 Capital Holdings LLC in favor of Zama in the maximum principal amount of \$1,250,000, dated March 30, 2023, is attached hereto as Exhibit 17.

20. A true and accurate copy of a letter to Zama from Springowl Special Opportunities Fund, LP (“Springowl”) dated March 30, 2023, regarding, *inter alia*, the above-referenced March 30, 2023 Delayed Draw Promissory Note, and referencing loans made by Zama and Springowl in “equal amounts” pursuant to the same, is attached hereto as Exhibit 18.

21. A true and accurate copy of a Delayed Draw Promissory Note made by 26 Capital Holdings LLC in favor of Zama in the maximum principal amount of \$2,000,000, dated April 28, 2023, is attached hereto as Exhibit 19.

22. A true and accurate copy of a letter to Zama from Springowl Special Opportunities Fund, LP (“Springowl”) dated April 28, 2023, regarding, *inter alia*, the above-referenced April 28, 2023 Delayed Draw Promissory Note, and referencing loans made by Zama and Springowl in “equal amounts” pursuant to the same, is attached hereto as Exhibit 20.

23. A true and accurate copy of the Form 8-K of 26 Capital Acquisition Corp. filed with the U.S. Securities and Exchange Commission on August 8, 2023 is attached hereto as Exhibit 21.

24. A true and accurate copy of the letter from the law firm Cole Schotz P.C. filed in the SPAC Action on January 25, 2024 is attached hereto as Exhibit 22.

25. A true and accurate copy of the Order entered in the Rimu Delaware Action on November 17, 2023, granting Plaintiff’s Motion for a *Status Quo* Order, is attached hereto as Exhibit 23.

26. A true and accurate copy of the Stipulation and [Proposed] Order Vacating Status Quo Order filed on January 24, 2024 in the Rimu Delaware Action is attached hereto as Exhibit 24.

I declare under penalty of perjury that the foregoing is true and correct as of this 29th day of January, 2024.

/s/ John H. Chun

John H. Chun